

1 BRODKOWITZ LAW
2 81 Vine Street, Suite 202
3 Seattle, WA 98121
(206) 838-7531 tel
(206) 838-7532 fax
alisa@brodkowitzlaw.com

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 | TRICIA BRAUN, individually,

Plaintiff,

V.

NO.

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

US AIRWAYS, INC., a Delaware corporation, US AIRWAYS GROUP, INC., a Delaware Corporation, and JOHN DOE, an unknown individual.

Defendants.

I. PARTIES

1.1 Plaintiff Tricia Braun is a resident of Snohomish County, Washington.

1.2 Defendant US Airways, Inc. ("US Airways") is a corporation organized and

existing under the laws of the State of Delaware, maintaining its principal place of business in

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1 the State of Arizona, and is engaged in business in the State of Washington and the County of
2 King.

3 1.3 Defendant US Airways Group, Inc. ("US Airways Group") is a corporation
4 organized and existing under the laws of the State of Delaware, maintaining its principal place of
5 business in the State of Delaware. Based upon information and belief, US Airways Group is the
6 holding company for US Airways and is responsible for the acts, omissions and other wrongful
7 conduct of US Airways. At all relevant times, US Airways Group exercised such dominion and
8 control over US Airways that it is liable according to the law for the acts of US Airways. (The
9 Defendants identified in Paragraphs 1.2 and 1.3 are hereinafter referred to as the "US Airways
10 Defendants.")

11 1.4 At all times material hereto the US Airways Defendants were and are common
12 carriers engaged in the business of transporting passengers for hire.

13 1.5 The identity of Defendant John Doe is presently unknown. When his identity and
14 residence is discovered, this Complaint shall be amended.

15 **II. JURISDICTION AND VENUE**

16 2.1 This action is properly brought before the United States District Court for the
17 Western District of Washington at Seattle pursuant to 28 U.S.C. §1332(a) on the basis of diversity
18 of citizenship and on the basis that the amount in controversy exceeds the jurisdictional amount of
19 \$75,000 as provided therein.

20 2.2 This action is properly brought before the United States District Court for the
21 Western District of Washington at Seattle because the US Airways Defendants reside in this
22 district.

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1 2.3 The US Airways Defendants maintain offices, conduct business, and may be
2 served in the Western District of Washington.

3 2.4 The US Airways Defendants have availed themselves of this jurisdiction.

III. FACTS

5 3.1 On August 2, 2009 Plaintiff Tricia Braun was a fare-paying passenger aboard an
6 Airbus A319 aircraft operated as US Airways Flight No. 296 (“subject aircraft”) from McCarran
7 International Airport, Las Vegas, Nevada (“McCarran”) with an intended destination of Seattle-
8 Tacoma International Airport, Seattle, Washington (“subject flight”).

9 3.2 At approximately 9:30 p.m. PDT on August 2, 2009 Plaintiff Tricia Braun was
10 seated in her assigned seat. The flight crew were preparing the cabin for takeoff when a late-
11 arriving and noticeably intoxicated unknown male passenger, Defendant John Doe, entered the
12 subject aircraft.

13 3.3 Defendant John Doe was carrying a large black bag.

14 3.4 Defendant John Doe attempted to stow his bag in an overhead compartment above
15 Plaintiff Tricia Braun's seat.

16 3.5 Defendant John Doe struggled to fit his bag in the overhead compartment, and
17 was urged by a US Airways flight attendant to stow the bag at once, as the subject aircraft was
18 due to takeoff.

19 3.6 Defendant John Doe used just one arm in an attempt to stow the oversized bag
20 when he lost his grip on the bag.

3.7 The bag fell from the overhead compartment area, striking Plaintiff Tricia Braun
in the head and causing her to lose consciousness.

23

1 3.8 As a result of the aforementioned blow to the head, the unconscious Plaintiff
2 Tricia Braun was knocked forward and into the aisle.

3 3.9 When Plaintiff Tricia Braun regained consciousness she was instructed by US
4 Airways personnel to leave the plane due to her "medical emergency."

5 3.10 Plaintiff Tricia Braun was transported via taxi cab to a local hospital.

6 3.11 After the incident, US Airways personnel removed John Doe's bag from the cabin
7 and stowed it in the cargo hold of the aircraft.

8 **IV. DUTY**

9 4.1 Plaintiff hereby re-alleges and incorporates all paragraphs in Sections I-III, above,
10 and by reference herein.

11 4.2 At all times material hereto, US Airways Flight No. 296 was operated by a
12 common carrier engaged in the business of transporting fare-paying passengers by air. As a
13 common carrier, Defendant US Airways owed the highest duty of care to its passengers,
14 including Plaintiff Tricia Braun, a passenger on US Airways Flight No. 296.

15 **V. NOTICE**

16 5.1 Plaintiff hereby re-alleges and incorporates all paragraphs in Sections I-IV, above,
17 and by reference herein.

18 5.2 Prior to the subject flight, Defendant US Airways received actual or constructive
19 notice of Defendant John Doe's intoxication.

20 5.3 Prior to the subject flight, Defendant US Airways received actual or constructive
21 notice that the bag belonging to Defendant John Doe would not fit or properly stow in the
22 overhead compartments aboard the subject aircraft.

23 **VI. LIABILITY**

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1 6.1 Plaintiff hereby re-alleges and incorporates all paragraphs in Sections I-V, above,
2 and by reference herein.

3 6.2 Defendant US Airways was negligent in that it failed to exercise the highest
4 degree of care commensurate with the practical operation of Flight No. 296 in its business as a
5 common carrier.

6 6.3 Defendant US Airways' negligence proximately caused injuries and damages to
7 Plaintiff Tricia Braun as identified in Section VIII of this Complaint.
8 Defendant U.S. Airways and its agents, servants and employees, acting within the scope of their
9 agency, service and/or employment (collectively referred to hereinafter as "U.S. Airways")
10 recklessly, willfully, negligently, tortiously and/or carelessly failed to protect the safety of its
11 passengers from disorderly, intoxicated and reckless abusive and individuals during the course of
12 embarkation.

13 6.4 Defendant U.S. Airways knowingly, recklessly, willfully, negligently, tortiously
14 and/or carelessly placed Plaintiff Tricia Braun at risk of grave injury by allowing John Doe to
15 enter the aircraft.

16 6.5 Defendant U.S. Airways knowingly, recklessly, willfully, negligently, tortiously
17 and/or carelessly placed Plaintiff Tricia Braun at risk of grave injury by allowing John Doe to
18 bring an oversize bag on to the aircraft.

19 6.6 Defendant U.S. Airways knowingly, recklessly, willfully, negligently, tortiously
20 and/or carelessly placed Plaintiff Tricia Braun at risk of grave injury by ordering John Doe to
21 stow his bag, which could and did result in severe injury.

22 6.7 Defendant U.S. Airways knowingly, recklessly, willfully, negligently, tortiously
23 and/or carelessly failed to adequately train and/or supervise its agents, servants, and employees

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1 in the proper security protocol and customer relations and violated their own rules, guidelines
2 and policies.

3 6.8 Defendant U.S. Airways knowingly, recklessly, willfully, negligently, tortiously
4 and/or carelessly failed to adequately train and/or supervise its agents, servants, and employees
5 in the proper provision of in-flight medical assistance.

6 6.9 Defendant U.S. Airways knew or should have known their acts and omissions
7 created a foreseeable risk of grave, permanent and/or debilitating injuries for passengers,
8 including Plaintiff Tricia Braun.

9 6.10 Defendant United Airline's acts and omissions and its overall failure to follow
10 industry, national, and/or international standards, principles, procedures and/or practices with
11 regard to security, carry-on luggage, stowing of carry-on luggage, customer relations and
12 medical assistance constitute willful misconduct and/or, reckless, knowing, negligent, tortious
13 and/or careless conduct with knowledge that injuries or damages would probably result.

14 6.11 Defendant United Airline's acts and omissions, its breaches of its duties as a
15 common carrier, and its failure to meet the applicable standards, principles, and practices
16 proximately caused injuries and damages to the Plaintiff, including but not limited to serious
17 physical and mental injuries, past and future medical expenses, past and future wage loss, past
18 and future pain and suffering, past and future emotional distress, loss of enjoyment of life,
19 physical and mental disability, trauma, fear, fright, embarrassment, loss of consortium and any
20 and all special and general damages allowed by law or otherwise, all in an amount to be proven
21 at trial.

22 **VII. BREACH OF CONTRACT**

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1 7.1 Plaintiff hereby re-alleges and incorporates all paragraphs in Sections I-VI, above,
2 and by reference herein.

3 7.2 Defendant US Airways agreed to safely transport Plaintiff Tricia Braun in
4 exchange for compensation.

5 7.3 Defendant US Airways breached this agreement by failing to safely transport
6 Plaintiff Tricia Braun without accident or incident and by failing to prevent Defendant John Doe
7 from dropping a bag on her head. As a result, Plaintiff Tricia Braun sustained damages as
8 identified in Section VIII of this Complaint.

VIII. DAMAGES

10 8.1 Plaintiff hereby re-alleges and incorporates all paragraphs in Sections I-VII,
11 above, and by reference herein.

12 8.2 Defendant US Airways' negligence, its acts and omissions, its breaches of its
13 duties as a common carrier, and its failure to meet the applicable standards, principles, and
14 practices proximately caused injuries and damages to Plaintiff Tricia Braun, including but not
15 limited to physical injuries, past and future medical expenses, past and future pain and suffering,
16 past and future emotional distress, past and future loss of enjoyment of life, past and future
17 physical disability, trauma, fear, fright, embarrassment, and any and all special and general
18 damages allowed by law or otherwise, and property loss, all in an amount to be proven at trial.
19 As of the date of this Complaint for damages, Plaintiff Tricia Braun has not recovered from her
20 injuries, which are therefore alleged to be permanent in nature.

IX. PRAYER FOR RELIEF

22 WHEREFORE, Plaintiff prays for judgment for Plaintiff and against the Defendant
23 herein as follows:

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- 1 9.1 For judgment against Defendant for general and special damages in an amount to
2 be proven at the time of trial;
- 3 9.2 For all costs and expenses herein;
- 4 9.3 For prejudgment interest on all damages herein;
- 5 9.4 For attorney fees, disbursements, and litigation expenses; and
- 6 9.5 For such other and further relief as this Court deems just and equitable.

7 DATED this 26th day of January, 2010.
8

9 BRODKOWITZ LAW

BURKETT & BURDETTE

11 /s/Alisa Brodkowitz .
12 ALISA BRODKOWITZ, WSBA #31749
Co-Counsel for Plaintiffs

13 81 Vine Street, Suite 202
Seattle, WA 98121
(206) 838-7531
(206) 838-7532 fax
alias@brodkowitzlaw.com

11 /s/Douglas Lee Burdette .
12 DOUGLAS LEE BURDETTE, WSBA # 17636
Co-Counsel for Plaintiffs

13 1809 Seventh Avenue, Ste. 1400
Seattle, WA 98101
(206) 441-5544 direct
(206) 441-5688 fax
dlburdette@burkettburdette.com

- 1 9.1 For judgment against Defendant for general and special damages in an amount to
2 be proven at the time of trial;
3 9.2 For all costs and expenses herein;
4 9.3 For prejudgment interest on all damages herein;
5 9.4 For attorney fees, disbursements, and litigation expenses; and
6 9.5 For such other and further relief as this Court deems just and equitable.

7 DATED this 26th day of January, 2010.
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alisa@brodkowitzlaw.com

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(206) 441-5688 fax
dlburdette@burkettburdette.com